

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
9 **STATE BOARD OF OPTOMETRY**
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. CC 2010-201

12 **ROBERT A. MONETTA, O.D.**
13 **2532 Ocean Avenue**
San Francisco, CA 94132

ACCUSATION

14 **Certificate of Registration to Practice**
Optometry No. 7529
15 **Branch Office License No. 6755**
Fictitious Name Permit No. 3785

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

22 2. On or about February 22, 1982, the State Board of Optometry issued Certificate of
23 Registration to Practice Optometry Number 7529 to Robert A. Monetta, O.D. (Respondent). The
24 Certificate of Registration to Practice Optometry was in full force and effect at all times relevant
25 to the charges brought herein and will expire on January 31, 2014, unless renewed.

26 3. On or about March 14, 2011, the State Board of Optometry issued Branch Office
27 License Number 6755 to Respondent. The Branch Office License was in full force and effect at
28

1 all times relevant to the charges brought herein and will expire on February 1, 2013, unless
2 renewed.

3 4. On or about March 14, 2011, the State Board of Optometry issued Fictitious Name
4 Permit Number 3785 to Respondent. The Fictitious Name Permit was in full force and effect at
5 all times relevant to the charges brought herein and will expire on January 31, 2013, unless
6 renewed.

7 JURISDICTION

8 5. This Accusation is brought before the State Board of Optometry (Board), Department
9 of Consumer Affairs, under the authority of the following laws. All section references are to the
10 Business and Professions Code unless otherwise indicated.

11 6. Section 3110 of the Code states:

12 "The board may take action against any licensee who is charged with unprofessional
13 conduct, and may deny an application for a license if the applicant has committed unprofessional
14 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
15 limited to, the following:

16 "(a) Violating or attempting to violate, directly or indirectly assisting in or abetting the
17 violation of, or conspiring to violate any provision of this chapter or any of the rules and
18 regulations adopted by the board pursuant to this chapter.

19 "(b) Gross negligence.

20 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
21 omissions.

22 "(d) Incompetence.

23 ..."

24 7. Section 3041.1 of the Code states: "With respect to the practices set forth in
25 subdivisions (b), (d), and (e) of Section 3041, optometrists diagnosing or treating eye disease
26 shall be held to the same standard of care to which physicians and surgeons and osteopathic
27 physicians and surgeons are held."
28

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

9. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

FACTUAL BACKGROUND

10. Patient L.J. saw Respondent for her eye care from June 1992 to August 2009. In 2009, Respondent told L.J. that she had early cataracts, but did not advise her that she had glaucoma (or that she was at risk for developing glaucoma) at any time during her treatment. During the years that Respondent treated L.J., her cup to disc ratio¹ increased, and she had visual field defects, both signs of potential glaucoma. In October 2010, at the age of 83, L.J. noticed her vision worsening, and decided to change optometrists. L.J. saw an ophthalmologist, Dr. M., on October 25, 2010 for the first time. During this appointment, Dr. M. noted that L.J. had extremely high intraocular pressure in both eyes², indicative of glaucoma, a disease that takes years to develop. Dr. M. also noted that L.J. had significant optic nerve damage in both eyes. Dr. M. treated L.J. for end stage glaucoma. L.J.'s glaucoma, which went untreated by Respondent, caused her to suffer irreversible and significant visual field loss.

FIRST CAUSE FOR DISCIPLINE

(GROSS NEGLIGENCE)

11. Respondent is subject to disciplinary action under section 3110(b) in that he was grossly negligent when he failed to diagnose or treat glaucoma in his patient L.J., as alleged above in paragraph 10.

///

¹ Cup to disc ratio compares the diameter of the “cup” portion of the optic disc with the total diameter of the optic disc.

² Normal intraocular pressure is between 10 and 21 mmHg. On October 25, 2010, L.J.'s intraocular pressures were 37 OD (right) and 38 OS (left).

SECOND CAUSE FOR DISCIPLINE

(INCOMPETENCE)

12. Respondent is subject to disciplinary action under section 3110(d) in that he was incompetent when he failed to diagnose or treat glaucoma in his patient L.J., as alleged above in paragraph 10.

THIRD CAUSE FOR DISCIPLINE

(UNPROFESSIONAL CONDUCT)

13. Respondent is subject to disciplinary action under section 3110 in that he acted unprofessionally when he failed to diagnose or treat glaucoma in his patient L.J., as alleged above in paragraph 10.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the State Board of Optometry issue a decision:

1. Revoking or suspending Certificate of Registration to Practice Optometry Number 7529, issued to Robert A. Monetta;
2. Revoking or suspending Branch Office License Number 6755, issued to Robert A. Monetta;
3. Revoking or suspending Fictitious Name Permit Number 3785, issued to Robert A. Monetta;
4. Ordering Robert A. Monetta to pay the State Board of Optometry the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

///

///

///

///

///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. Taking such other and further action as deemed necessary and proper.

DATED: October 24, 2012



MONA MAGGIO
Executive Officer
State Board of Optometry
Department of Consumer Affairs
State of California
Complainant

SF2012402543
40592519.doc